

REMARKS

Please review the application in view of the above amendments and the following remarks. Applicants thank the Examiner for courtesies extended during the Examiner interview of July 28, 2009, and for carefully considering the application.

Disposition of Claims

Claims 1-8, 10-19, 21-30, and 32-33 are pending in the application. Claims 1, 12, and 23 are independent. The remaining claims depend, directly or indirectly, from the independent claims.

Examiner Interview

An Examiner Interview was conducted on July 28, 2009. Rejections under 35 U.S.C. § 103 were discussed. No agreement was reached.

Claim Amendments

Claims 1, 12, and 23 have been amended by this reply to clarify the scope of the claims. Specifically, claims 1, 12, and 23 have been amended to clarify that the non-global operating system partitions each comprise a file system. Support for these amendments may be found, for example, in paragraph [0011] and Fig. 1 of the Specification. No new matter is added by way of these amendments.

Amendments to the Specification

Paragraph [0044] of the Specification has been amended by this reply to clarify that a carrier wave is not a computer readable medium as disclosed in the claims. No new matter is added by way of these amendments.

Objections under 35 U.S.C. § 101

Claims 12-19 and 21-22 are objected to under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Examiner objects because the Specification recites that a machine-readable storage medium includes a carrier wave.

Paragraph [0044] of the Specification has been amended to clarify that the machine-readable medium does not include carrier waves. Accordingly, the machine-readable storage medium of claims 12-19 is no longer directed to carrier waves. Thus, withdrawal is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 1-8, 10-19, 21-30, and 32-33 are rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. Specifically, the Examiner rejects the claims because claims 1, 12, and 23 “recite changing the association of resource pools is performed ‘without terminating and restarting the processes,’” and “no mention is made that such action s are performed without termination and restarting of processes.” *See* Office Action p. 3.

Applicants respectfully disagree. 35 U.S.C. § 112 requires that the “specification describe how to make and how to use the invention. The invention that one skilled in the art must be enabled to make and use is that defined by the claim(s) of the particular application or patent.” In the instant

case, the Specification clearly discloses that the associations may be changed “for the most part at any time, including after a non-global zone 140 is already in the running state.” *See* paragraph [0034] of the Specification. If a zone is in running state, then by the ordinary definition of the term “already in running state,” the processes are running and, as such, are not terminated and restarted. This is further supported in paragraph [0020] of the Specification, which discloses, in part, “[a]fter a non-global zone 140 is in the Ready state, it can be transitioned into the Running state by executing one or more user processes in the zone.” Thus, changing the association of resource pools is performed without terminating and restarting the processes is enabled by the Specification.

For the reasons described above, claims 1, 12, and 23 are enabled by the Specification. Claims 2-8, 10-11, 13-19, 21-22, and 24-30 depend from independent claims 1, 12, and 23 and, thus, are also enabled by the Specification. Accordingly, the rejection is respectfully traversed and withdrawal is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1-8, 10-19, 21-30, and 32-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0014466 (“Berger”) in view of U.S. Patent Publication No. 2002/0168224 (“Armstrong”), further in view of U.S. Patent Publication No. 2006/0168224 (“Midgley”). To the extent the rejection applies to the pending claims, the rejection is respectfully traversed.

Briefly, claim 1 discloses, in part, non-global operating system partitions. Each of these non-global operating system partitions does not have a separate operating system kernel, but each has a separate file system. *See, e.g.*, paragraph [0011] of the Specification. Further, each of the

non-global operating system partitions serve to isolate processes running within it from other non-global operating system partitions. *See, e.g., Id.*

Turning to the rejection, MPEP § 2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” Further, when combining prior art elements, the Examiner “must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference....” MPEP § 2143(A). Applicants respectfully assert that Berger, Armstrong, and Midgley fail to disclose each and every element of the claims, either individually or combined.

Specifically, regarding claim 1, Berger, Armstrong, and Midgley fail to disclose non-global operating system partitions each comprising a file system. The Examiner cites Berger as disclosing the non-global operating system partitions. *See* Office Action p. 4. However, Berger discloses the use of “containment,” which includes placing strict controls on which resources an application can access. *See* Berger paragraph [0010]. Thus, each container does not have its own file system, but restricts application to access only certain resources of a common file system. An example of this is in paragraph [0041] of the Specification. Specifically, Berger discloses that “[u]nlike traditional trusted OSs, in this example, labels are not used to directly control access to the main filesystem. Instead, filesystem protection is achieved by associating a different section of the main filesystem with each compartment.” *See* Berger, paragraph [0041]. Accordingly, it is clear that the containers of Berger do not each contain a file system; rather, the containers in Berger use a common file

system, which is contrary to the claimed invention. Thus, Berger fails to disclose the non-global operating system partitions each comprising a separate file system.

Further, Armstrong and Midgley fail to disclose that which Berger lacks. This is evidenced by the fact that Armstrong merely discloses logical partitions. By definition in Armstrong, “[l]ogical partitioning is a technique for dividing a single large computer system into multiple partitions, each of which behaves in some respects as a separate computer system.” *See* Armstrong, paragraph [0023]. Accordingly, Armstrong, at best, discloses one set of resources being partitioned, and, thus, would, at best, disclose a partitioned file system, rather than a file system for each non-global operating system partition as is the case in the claimed invention. Further, Midgley fails to disclose each non-global operating system partition comprising a file system. Specifically, a review of Midgley reveals that Midgley is silent regarding non-global operating system partitions.

Moreover, in the event that the Examiner attempts to equate the single file system accessible to multiple containers of the prior art with the distinct file systems in the non-global zones as claimed, the Applicants respectfully remind the Examiner that an finding of obviousness under 35 U.S.C. § 103(a) requires that “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.”¹ Accordingly, at best, the Examiner’s assertion that a partitioned file system is equivalent to multiple file systems is merely distilling the claim down to the “gist” of the invention.

MPEP § 2141.02 states that this kind of analysis “disregards the requirement of analyzing the subject matter ‘as a whole.’” *See, e.g.,* Bausch & Lomb v. Barnes-Hind/Hydrocurve, Inc., 796

F.2d 443, 447-49, (Fed. Cir. 1986), *cert. denied*, 484 U.S. 823 (1987). Thus, any potential argument the Examiner may have for finding the claimed distinct file systems as disclosed in the cited prior art would be violate, at least, the above rules outlined by the courts.

For these reasons, Berger, Armstrong, and Midgley fail to disclose or render obvious each and every element of independent claim 1. Thus, independent claim 1 is patentable over Berger, Armstrong, and Midgley. Independent claims 12 and 23 include similar limitations as independent claim 1 and, thus, are also patentable over the cited prior art for at least the same reasons. Moreover, the remaining claims depend, directly or indirectly, from independent claims 1, 12, and 23, and, thus, are also patentable over the cited prior art for at least the same reasons. Accordingly, the rejection is respectfully traversed and withdrawal is respectfully requested.

¹ Applicants note the Examiner raised this issue during the Examiner Interview and, the Applicants, in an effort to further prosecution, have proactively addressed this issue in the instant action.

Conclusion

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 33227/469001).

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Respectfully submitted,

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